

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 641 of 2003

Order reserved on 08.01.2019

Order pronounced on 09.04.2019

Solu @ Yadunandan Bharti S/o. Shri Tiharu Bharti, aged about 22 years, R/o Village Kurma Police Station Blaunda, District Janjgir (Champa) CG. **---- Applicant**

Versus

State of Chhattisgarh

---- Respondent

For Applicant : Shri Govind Ram Miri, Advocate

For Respondent/State : Smt. M. Asha, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V Order

Accused/applicant is alleged to have taken direct illegal connection from the transformer and by coming into contact of the live wire used for doing so, one Kuppibai lost her life on 27.12.1990. The wire used for taking illegal electric connection was also seized from the spot itself. After going through the material on record learned Judicial Magistrate First Class convicted the accused/applicant u/s 304-A IPC and sentenced him to undergo RI for one year with fine of Rs. 1,000 vide judgment dated 21.07.1997 passed in Criminal Case No. 03/1991. These findings of the trial Court have been confirmed vide judgment impugned dated 22.12.2003 passed in Criminal Appeal No. 256/1997.

2. Counsel for the applicant submits that both the Courts below have based their finding on erroneous appreciation of the evidence of the witnesses and therefore, the judgment impugned is liable to be set aside. State counsel however, supports the judgment impugned.

3. The evidence on record clearly shows that the deceased died on account of coming into contact with the live electric wire used for taking illegal connection for the transformer by the accused/applicant. Even the

wire used in doing so and other articles such as bulb, holder, cloths etc. were also seized from the spot itself under Ex. P-4, Ex. P-5, Ex. P-6 and Ex. P-7 which has been duly supported by PW-6, PW-7 and PW-17. PW-1 has also stated that he saw the illegal electricity connection being taken from the transformer by the accused/applicant for which the report Ex. P-1 was also made by him. Factum of death of the deceased by coming into the contact of live wire has also been supported by PW-4 who after receiving information in this regard went to the spot and saw the electric connection going to the house of the accused/applicant from the transformer. PW-12 and PW-13 have also stated that the deceased died by electrocution through the live electric wire pulled by the accused/applicant from the transformer. The doctor (PW-18) vide his report Ex. P-13 has also stated that the death of the deceased was due to the electric shock by coming into the contact of electric current. Thus almost all the witnesses examined by the prosecution have fully supported the fact that the deceased died on account of rash and negligent act of the accused/applicant. Accordingly the conviction part of the judgment impugned is maintained.

4. As regards sentence, keeping in mind various factors existing at the present such as the case is quite old, he has already remained inside for 01 months 02 days and by now he must be reeling under the pressure of family responsibilities, interest of justice tilts in his favour. Accordingly this Court does not see any reason to again send him to jail and thereby disturb his well settled family life. Being so, the jail sentence imposed on him is reduced to the period already undergone by the accused/applicant. However, in lieu thereof the fine of Rs. 1000/- as imposed by the courts below is enhanced to Rs. 3,000/- to be deposited by him in the trial Court within a period of three months from the date of receipt of copy of this order. This order will lose its efficacy if the

accused/applicant fails to makes such deposit within the time mentioned above.

5. With the above observations and modifications in the order impugned, the revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan